

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



**FILED**  
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Order Instituting Rulemaking to Continue Implementation and Administration, and Consider Further Development, of California Renewables Portfolio Standard Program.

Rulemaking 15-02-020  
(Filed February 26, 2015)

**MOTION TO FILE UNDER SEAL  
UNREDACTED VERSION OF  
2016 RENEWABLES PORTFOLIO STANDARD PROCUREMENT PLAN  
OF DIRECT ENERGY BUSINESS, LLC**

Pursuant to Rule 11.4 of the Commission's Rules of Practice and Procedure, in accordance with Decision (D.) 06-06-006 and D.08-04-023, and in accordance with the Commission's November 20, 2014 *Decision Conditionally Accepting 2014 Renewables Portfolio Standard Procurement Plans and an Off-Year Supplement to 2013 Integrated Resource Plan* (the "Decision"),<sup>1</sup> Direct Energy Business, LLC ("Direct Energy") hereby submits this motion for leave to file under seal and confidential treatment of the unredacted version of its 2016 Renewables Portfolio Standard Procurement Plan ("RPS Plan") filed concurrently with this motion.

In D.06-06-066, the Commission adopted rules governing the confidentiality of certain categories of electric procurement data routinely submitted to the Commission by investor owned utilities ("IOUs") and electric service providers ("ESPs"). In addition, the Commission adopted two "matrices" - one for IOU data (the "IOU Matrix") and one for ESP data (the "ESP Matrix") - specifying the confidential treatment to be afforded to certain categories of data, as identified in the applicable matrix, that are routinely submitted to the Commission.

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<sup>1</sup> See Rulemaking 11-05-005, Decision 14-11-042, November 20, 2014, *issued* November 24, 2014, pp. 109-110.

Subsequently, in D.08-04-023, the Commission clarified the categories of data that are eligible for confidential treatment under D.06-06-066 and made corresponding modifications to the ESP Matrix.<sup>2</sup>

D.08-04-023 provides that where, as in the case of the RPS Plan, “[a] party files a pleading in a formal proceeding, including data of the type addressed in the Matrices to D.06-06-066, and seeks confidential treatment of that data,” the party is required to file a motion that complies with the requirements of Rule 11.4 and meets the five required showings specified in Ordering Paragraph 2 of D.06-06-066:

1. That the material constitutes a particular type of data listed in the Matrix;
2. The category or categories in the Matrix to which the data correspond;
3. That the submitting party is complying with the limitations on confidentiality specified in the Matrix for that type of data;
4. That the information is not already public; and
5. That the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.

In the Decision, in response to Direct Energy’s Motion to File Under Seal its 2014 RPS Procurement Plan, the Commission ordered Direct Energy to make public the years of 2011 through 2013 and the years 2018 through 2033 in its draft 2014 RPS Procurement Plan, Appendix A.<sup>3</sup> On August 4, 2015, Direct Energy filed and served a redacted public version of the RPS Plan consistent with the ESP Matrix and the Decision.<sup>4</sup>

In accordance with the aforesaid requirements, Direct Energy hereby affirms that the following data in Appendix A to the RPS Plan, for which it seeks confidential treatment, is either

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<sup>2</sup> See D.08-04-023, *mimeo*, pp. 11-19 and Appendix B.

<sup>3</sup> See Rulemaking 11-05-005, Decision 14-11-042 at 110.

<sup>4</sup> Direct Energy has adjusted, in part, the years required to be made public in the Decision to 2011-2014 to account for the fact that the Decision was based on Direct Energy’s 2014 RPS Procurement Plan, and not the current RPS Plan at issue.

ESP Matrix data, consists of information from which Matrix data may be easily derived and/or may be redacted in accordance with the Decision as described in the following table:

**TABLE OF CONFIDENTIAL DATA**

<b>Description of Data</b>	<b>Spreadsheet Location</b>	<b>Matrix Category</b>	<b>Explanation</b>
<b>Renewable Net Short Data (Appendix A of RPS Plan)</b>	Columns M through Q; Column S (adjusted to subtract out years 2018 and 2019 from CP3 aggregation)	I.A and I.B	Because Direct Energy procures nearly if not all of its energy requirements for a given year through short-term transactions made shortly before and during that year. Direct Energy's "net short" data for any given year is nearly if not identical with its annual retail sales in that year. Disclosure of Direct Energy's forecasted procurement/supply data (MWh) would reveal its PQT and PQR data (MWh), which in turn would reveal Direct Energy's expected annual retail sales.

Direct Energy further affirms that the data for which it is seeking confidentiality treatment is not already public, and that the redacted data could be made public without the risk of harm to Direct Energy and its customers if and only if the data were aggregated with that of all electric service providers. Direct Energy therefore requests, in accordance with the confidentiality treatment specified in D.06-06-066, D.08-04-023, the ESP Matrix and the Decision, that the Commission grant confidential treatment to the net short data specified in the above Table of Confidential Data. As required by Rule 11.4, a Proposed Order is attached to this motion.

Respectfully submitted,

/s/ Dana P. Palmer

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Dated: August 8, 2016

***Attorneys for Direct Energy Business, LLC***

## VERIFICATION

I, Dana P. Palmer, counsel for Direct Energy Business, LLC, am authorized to make this Verification on its behalf. I declare under penalty of perjury that the statements in the foregoing 2016 Renewables Portfolio Standard Procurement Plan filed in Rulemaking 15-02-020 on August 8, 2016, are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

Executed on August 8, 2016, at Los Angeles, California.

/s/ Dana P. Palmer

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OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Continue Implementation and Administration, and Consider Further Development of, California Renewables Portfolio Standard Program.

Rulemaking 15-02-020  
(Filed February 26, 2015)

**PROPOSED ORDER**

Pursuant to Rule 11.4 of the Commission’s Rules of Practice and Procedure, in accordance with Decision (D.) 06-06-006 and D.08-04-023, and in accordance with the Commission’s November 20, 2014 *Decision Conditionally Accepting 2014 Renewables Portfolio Standard Procurement Plans and an Off-Year Supplement to 2013 Integrated Resource Plan* (the “Decision”), Direct Energy Business, LLC (“Direct Energy”), a registered electric service provider (“ESP”), filed a Motion on August 8, 2016, for leave to file under seal and confidential treatment of the unredacted version of its 2016 Renewables Portfolio Standard Procurement Plan (“RPS Plan”) filed concurrently with the motion. The Motion requests confidential treatment of specified data in the RPS Plan.

The data for which Direct Energy requests confidential treatment are protected under the ESP Matrix adopted in D.06-06-066, as modified in D.08-04-023. In addition, the Motion complies with the limitations on confidentiality specified in the ESP Matrix and the Decision, and the data in question is not already public. Direct Energy further claims that the data can be made public without risking material harm to it and its customers *only if the data are aggregated with that of all electric service providers*.

Therefore, it is ordered that:

1. The confidential data contained in Direct Energy's RPS Plan shall remain sealed and is not to be disclosed to anyone other than Commission staff, the Assigned Commissioner, the assigned Administrative Law Judge ("ALJ") or an ALJ designated to decide this motion.

2. Further proceedings, if any, held with respect to matters contained in the confidential data shall be conducted in a manner the assigned ALJ deems reasonably necessary to protect the confidentiality of the data described herein;

3. Non-market participants may request access to the confidential information pursuant to applicable rules; and

4. All additional documentary evidence in this proceeding that addresses or relates to the confidential data must be treated in the confidential manner described in paragraphs 1 and 2, above.

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Administrative Law Judge

Dated: \_\_\_\_\_